



Constitution of Rockingham Montessori School Incorporated

ABN 68 115 270 695

As Updated: April 2020

Table of Contents

1	Name of Association	3
2	Definitions.....	3
3	Objects of Association	5
4	Powers of Association.....	5
5	Register of Members of the Association	6
6	Qualification for Membership of Association.....	7
7	Termination of Membership of the Association.....	8
8	Suspension or Expulsion of Members of the Association	8
9	Appointment and Removal of Board Members	9
10	The Board.....	12
11	Board Meetings	16
12	General Meetings	18
13	Minutes of Meetings of the Association.....	21
14	The Constitution	22
15	Common Seal of the Association	22
16	Inspection of Records, etc. of the Association	23
17	Disputes and Mediations	23
18	Distribution of Surplus Property on Winding up of the Association	23
19	Amendments Contained in this Version of the Constitution	24
FORM A: APPLICATION FOR MEMBERSHIP TO THE ASSOCIATION		25
FORM B: APPOINTMENT OF A PROXY.....		27
FORM C: NOTICE OF GENERAL MEETING TO ALTER THE CONSTITUTION OF THE ASSOCIATION		29

1 Name of Association

The name of the Association is: *Rockingham Montessori School Incorporated.*

The ABN of the Association is: 68 115 270 695.

2 Definitions

In this Constitution:

Annual General Meeting is the meeting convened under Section 12.9.

Association means *Rockingham Montessori School Incorporated.*

Auditor means the person appointed for the time being as the auditor of the Association.

Board (see **School Board**)

Board Meeting means a meeting referred to in Section 11.

Board Member means a person referred to in Section 10.

Centre Based Child Care [CBCC] means the service usually offers long continuous sessions of care during the middle part of the day and the physical environment and programming of the service caters for the needs and safety of children aged between 0 and 6 years

Constitution means the Rules of the Association (this document).

Department means the government department with responsibility for administering The Act.

Ex-officio means a Board Member who is part of the Board by virtue of holding office (e.g. Principal).

Financial Year means a period not exceeding 12 months fixed by the Committee, commencing on 1st January and ending on 31st December.

Fit and Proper Persons means that people (or entities) who have management control or any person responsible for the day to day operation of the school or child-care service are required to be fit and proper persons to be involved in the receiving and passing on of the Child Care Subsidy and the Additional Child Care Subsidy.

General Meeting means a meeting to which all Members are invited, as referred to in Section 12.

Member means a person who is, or who is registered as, a member of the Association.

Membership means being a member of the Association.

Nominated Supervisor means the person/s responsible for the day to day running of a CBCC or OSHC Service

Objects are the objects and purposes as set out in Section 3.

Outside School Hours Care [OSHC] means services provided to care before and after school hours and during school holidays for children who normally attend school

Ordinary Resolution means a resolution other than a special resolution.

Poll means voting conducted in written form (as opposed to a show of hands).

Persons with Management Control [PMC] means a member of the executive committee of an eligible association who has responsibility, alone or with others, for managing the delivery of an education and care service, or a person who has responsibility, alone or with others, for managing the delivery of an education and care service.

Register of Members means the register of Members maintained pursuant to the Act.

School means *Rockingham Montessori School Incorporated*.

School Board means the committee of management of the Association.

Secretary means any person appointed for the time being as, or to perform the functions of, secretary of the Association.

Special General Meeting means a General Meeting other than the Annual General Meeting.

Special Resolution means a resolution passed by three - fourths of the members at a general meeting in accordance with section 51 of the Act.

The Act is the *Associations Incorporation Act 2015*.

The Chair means:

- a) In relation to the proceedings at a Board Meeting, the person presiding at the Board Meeting in accordance with Section 11; or
- b) In relation to the proceedings at a General Meeting, the person presiding at the General Meeting in accordance with Section 12.12; or
- c) Otherwise than in relation to the proceedings referred to in paragraph (a), the person appointed for the time being as the Chair of the Association referred to in Section 10.1(a) or, if that person is unable to perform his or her functions, The Vice-Chair of the Association referred to in Section 10.1(b)

The Commissioner means the Commissioner for Consumer Protection exercising powers under the Act.

The Treasurer means the person appointed for the time being as the Treasurer of the Association referred to in Section 10.1(c).

The Vice-Chair means the person appointed for the time being as the Vice-Chair of the Association referred to in Section 10.1(b).

3 Objects of Association

3.1 The objects of the Association are:

- a) To operate the School in accordance with the Montessori principles and practices of education and human development;
- b) To support and encourage the full development of every child;
- c) To encourage educators, parents and those working with children to apply the Montessori principles and practices of education and human development;
- d) To support and encourage the Montessori movement in Australia;
- e) To support the recognition of Montessori with government, education authorities and other institutions and bodies;
- f) To uphold, propagate and further the pedagogical principles and practice formulated by Dr Maria Montessori for the full development of the human being; and
- g) To Provide Centre Based Child Care [CBCC] and Out of Hours School Care [OHSC] services, as specified under the Family Assistance Law, at one or more of the School's sites, and receive and pass on Child Care Subsidy payments to eligible families to reduce the cost of child care.
- h) To do all such other lawful things as are incidental or conducive to the attainment of any of the above objects.

3.2 The income and property of the Association shall be applied solely towards the promotion of the objects or purposes of the Association. No portion of the income or property shall be paid, transferred or otherwise distributed directly or indirectly to any Member of the Association except in good faith in the promotion of those objects or purposes.

3.3 A payment to a member out of the funds of the Association is authorised if it is —

- a) payment in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
- b) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association.

4 Powers of Association

4.1 The powers conferred on the Association are the same as those conferred by Section 14 of The Act, so that subject to The Act and any additions, exclusions or modifications inserted below, the Association may do all things necessary or convenient for carrying out its objects and purposes, and in particular may:

- a) Acquire, hold, deal with, and dispose of any real or personal property;
- b) Open and operate bank accounts;
- c) Invest its money:
 - i. In any security in which trust monies may lawfully be invested; or
 - ii. In any other manner authorised by the rules of the Association.
- d) Borrow money upon such terms and conditions as the Association thinks fit;

- e) Give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- f) Appoint agents to transact any business of the Association on its behalf;
- g) Enter into any other contract it considers necessary or desirable; and
- h) Act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene the Act or the Constitution of the Association.
- i) Manage the delivery of an education and care service [CBCC and OSHC]

5 Register of Members of the Association

5.1 The Secretary, on behalf of the Association, must comply with Section 53 of The Act by keeping and maintaining in an up to date condition a register of the Members of the Association, setting out:

- a) The name and address (residential, postal, or email) of each Member;
- b) The date on which each person became a Member; and
- c) In respect of each person who has ceased to be a Member, the date on which that person ceased to be a Member.

5.2 The Register of Members of the Association must be kept at the Association's registered office. A Member may inspect the Register of Members between the hours of 9:00am and 3:00pm on any business day. No amount may be charged for inspection. Any Member wishing to inspect the Register of Members will be required to provide a statutory declaration setting out the purpose for which the inspection is required and declaring that the purpose is connected with the affairs of the Association.

Note: It is an offence, under Section 57 of The Act, for a person to use or disclose information in the Register of Members except for a purpose:

- a) That is directly connected with the affairs of the Association; or
- b) That is related to the administration of The Act.

5.3 The Secretary must cause the record of a person who dies, or who ceases to be a member under Section 6.3(b), to be amended in the register referred to in Section 5.1 to reflect the date on which that person ceased to be a Member.

6 Qualification for Membership of Association

6.1 Membership without Application

Membership of the Association shall be conferred as a right without the need for application upon the following people:

- a) The parents and/or legal guardians of students attending the School, as nominated on the student enrolment form;
- b) A person from the General Community appointed as a Board Member, subject to section 9.3.

6.2 Membership with Application

Where parents and/or legal guardians of students attending the School change (for example through re-marriage), Membership of the Association shall be conferred upon those additional persons whose written application for membership is ratified by the Board in accordance with this Constitution, following approval being sought from the existing nominated parents and/or legal guardians of the attending student(s).

Membership of the Association shall be conferred upon such members of the general community whose written application for membership is ratified by the Board in accordance with this Constitution.

An individual who has not reached the age of 18 years is not eligible to apply for membership

6.3 Dealing with membership applications

- a) The Board must consider each application for membership of the Association and decide whether to accept or reject the application;
- b) The Board must consider applications in the order in which they are received by the Association;
- c) The Board may delay its consideration of an application if the committee considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application;
- d) The Board must notify the applicant of the Board's decision to accept or reject the application as soon as practicable after making the decision;
- e) If the committee rejects the application, the committee is not required to give the applicant its reasons for doing so;

6.4 Becoming a Member and Ceasing to be a Member

- a) Subject to the Act, a person becomes a Member on the registration of that person's name in the Register of Members;
- b) To be an active Member of the Association a person must pay any fees required by the Association;
- c) Subject to the Act, a Member will cease to be entitled to be a Member if:
 - i. **Parent/Guardian** – dies, or ceases to have any child at the school;
 - ii. **General Community** – dies, or ceases their appointed function;
 - iii. **Board Member** – ceases to be a Board member;

- iv. Member has no contact with the Association for a period of ninety (90) days; or
- v. The Member has their membership terminated in accordance with Sections 7 or 8; and
- vi. the Register of Members will be amended to reflect each person so ceasing to be entitled to be a Member. However, such a person will be eligible to reapply for membership in accordance with this Constitution.

6.5 Rights of Members

The Association shall confer the following rights upon all of its Members:

- a) to receive notice of meetings;
- b) to have one (1) deliberative vote at general meetings either in person or by proxy;
- c) A Member (in this section called "the appointing member") may appoint in writing another Member who is a natural person, to be the proxy of the appointing member, and to attend and vote on behalf of the appointing member at any General Meeting;
- d) to be eligible to nominate for election to the Board after a qualification period that may be set from time to time by the Board, and shall not be more than twelve (12) months;.

7 Termination of Membership of the Association

7.1 Membership of the Association may be terminated upon:

- a) Receipt by The Secretary or another Board Member of a notice in writing from a Member of his or her resignation from the Association; or
- b) Expulsion of a Member in accordance with Section 8.

8 Suspension or Expulsion of Members of the Association

8.1 If the Board considers that a Member should be suspended or expelled from membership of the Association because his or her conduct is detrimental to the interests of the Association, the Board must communicate, either orally or in writing, to the member:

- a) Notice of the proposed suspension or expulsion, and of the time, date and place of the Board Meeting at which the question of that suspension or expulsion will be decided; and
- b) Particulars of that conduct.

not less than 30 days before the date of the Board meeting referred to in paragraph (a).

8.2 At the Board Meeting referred to in a notice communicated under Section 8.1(a), the Board may, having afforded the Member concerned a reasonable opportunity to be heard by, or to make representations in writing to, the Board, suspend or expel, or decline to suspend or expel, that Member from membership of the Association, and must forthwith after deciding whether or not to suspend or expel that member, communicate that decision in writing to that Member.

8.3 Subject to Section 8.5, a decision of the Board to suspend the member's membership or to expel the member from the Association, takes immediate effect

8.4 A Member who is suspended or expelled under Section 8.2 must, if he or she wishes to appeal against that suspension or expulsion, give notice to the Secretary of his or her intention to appeal within the 14 day period referred to in Section 8.3.

8.5 When notice is given under Section 8.4:

- a) The Association in a General Meeting, must either confirm or set aside the decision of the Board to suspend or expel the Member, after having afforded the Member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the General Meeting; and
- b) The Member who gave that notice is not suspended or does not cease to be a Member, unless and until the decision of the Board to suspend or expel that Member is confirmed under Section 8.5(a).

9 Appointment and Removal of Board Members

9.1 Number of Board Members

The number of Board Members must not be less than five (5) or more than eight (8).

9.2 Persons Prohibited from being a Board Member

A person is prohibited from sitting on the Board if they:

- a) Are an undischarged bankrupt, or their affairs are under insolvency laws;
- b) Have been convicted of an offence in connection with the promotion, formation or management of a body corporate;
- c) Have been convicted of an offence involving fraud or dishonesty punishable on conviction by at least three months or more imprisonment; or
- d) Have been convicted of an offence under Division 3 (the duties of officers provisions), or section 127 (the duty with respect to incurring of debt) of the Act.

Where a person is prohibited because they have been convicted of an offence (per above), they cannot be a Board Member for a period of five (5) years from the date of their conviction, except where the conviction resulted in imprisonment in which case they cannot be a Board Member for five (5) years from their release from custody.

9.3 Appointment of Board Members

- a) Subject to this Constitution, 75% of Board Members must be appointed by the Members, by resolution at a General Meeting.
- b) Subject to this Constitution, 25% of Board Members may be appointed by the Board by resolution at a Board Meeting.
- c) A person is not eligible for election to membership of the Board, unless a Member has nominated him or her for election by delivering notice in writing of that nomination, signed by the nominator and the nominee to signify his or her willingness to stand for election, to the Secretary not less than seven (7) days before the day on which the General Meeting concerned is to be held.

- d) A person who is eligible for election or re-election under Section 9.3(c) may:
 - i. Propose or second himself or herself for election or re-election; and
 - ii. Vote for himself or herself.
- e) If the number of persons nominated in accordance with Section 9.3(c) for election to membership of the Board does not exceed the number of vacancies in that membership to be filled, the Secretary must report accordingly.
- f) The Chair must declare those persons to be duly elected as members of the Board at the General Meeting or Board Meeting concerned.
- g) An appointment of a person as a Board Member is not effective unless a signed consent to the appointment is provided by that person to the Association. The appointment of a person as a Board Member will take effect on the later of the date of appointment and the date on which the Association receives the signed consent.
- h) A Board Member must not be a staff member of the School, with the exception of the Principal.
- i) There is no maximum term for Board Members, subject to Section 9.7.
- j) The Board may appoint co-opted Board Members for a term of not more than one (1) year.

9.4 Removal of Board Members

- a) The Association may remove a Board Member by resolution at a General Meeting.
- b) At least two (2) months' notice must be given to the Association of the intention to move a resolution to remove a Board Member at a General Meeting.
- c) If notice of intention to move a resolution to remove a Board Member at a General Meeting is received by the Association, that Board Member must be given a copy of the notice as soon as practicable.
- d) The Board Member must be informed that he or she may submit a written statement to the Association, for circulation to the Members before the meeting at which the resolution is put to a vote.

9.5 Speak to the motion to remove a Board Member at a General Meeting at which the resolution is to be put to a vote

At least 21 days' notice must be given to Members of a General Meeting at which the resolution for the removal of a Board Member is proposed. The notice must set out the proposed resolution and the grounds for the proposed resolution.

9.6 Cessation of Board Membership

A person ceases to be a Board Member, and the office of Board Member is vacated if the person:

- a) Is removed from office as a Board Member by a resolution of the Association at a General Meeting (per Section 9.4);
- b) Resigns as a Board Member in accordance with this Constitution;
- c) Is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Board member;
- d) Dies;
- e) Is, or becomes, a registrable person for the purposes of any State, Territory or Federal child protection legislation; or

- f) Is absent from Board meetings for a continuous period of two (2) months without leave of absence from the Board, and the Board does not resolve that the Board Member should not cease to be a Board Member.

9.7 Rotation of Board Members

- a) At each Annual General Meeting, one-third of the Board Members are subject to retirement by rotation. If the number of Board Members is not a multiple of three, then the number nearest to but not exceeding one-third of the Board Members must retire from office as Board Members.
- b) The Board Members to retire by rotation at each Annual General Meeting must include any Board Member who wishes to retire and does not wish to be re-appointed as a Board Member.
- c) Any further Board Member required to retire must be the Board Member who has been in office the longest as a Board Member. Where there are two or more Board Members that have been in office for an equal amount of time, and an agreement cannot be reached between the Board Members on who will retire, the Members will determine the Board Member or Board Members who will retire.
- d) For the purposes of Sections 9.7(b) and 9.7(c), the amount of time that a Board Member has been in office does not include the time that a Board Member was in office prior to any re-appointment(s).

9.8 Resignation of Board Members

A Board Member may resign from their position by giving notice of resignation in writing to the Association at its registered office.

Where a Board Member resigns (by rotation or otherwise) at an Annual General Meeting, that Board Member's resignation does not become effective until the end of the meeting.

9.9 Casual Vacancies in Membership of the Board

A casual vacancy occurs in the office of a Board Member, and that office becomes vacant if the Board Member:

- a) Dies;
- b) Resigns by notice in writing delivered to the Association, and that resignation is accepted by resolution of the Board;
- c) Is convicted of an offence under The Act;
- d) Is permanently incapacitated by mental or physical ill-health;
- e) Is absent from more than:
 - i. Three (3) consecutive Board Meetings; or
 - ii. Three (3) Board Meetings in the same financial year without tendering an apology to the person presiding at each of those Board Meetings of which the Board Member received notice.

and the Board has resolved to declare the office vacant;

- f) Ceases to be a Member of the Association; or
- g) Is the subject of a resolution passed by a General Meeting of Members of the Association, terminating his or her appointment as a Board Member.

10 The Board

10.1 Board Structure

The Board will consist of the following positions:

- a) Chair;
- b) Vice-Chair;
- c) Treasurer;
- d) Secretary;
- e) School Principal; and
- f) Not more than three (3) other Board Members.

10.2 Powers and Duties of the Board

- a) Subject to this Constitution and The Act, the activities of the Association are to be managed by, or under the direction of, the Board.
- b) Subject to this Constitution and The Act, the Board shall act in accordance with the *Board Manual*, which is a separate living document of the Association.
- c) Subject to this Constitution and The Act, the Board may exercise all powers of the Association that are not required to be exercised by the Association in a General Meeting.

The powers of the Board include the power to:

- i. Borrow or otherwise raise money; and
- ii. Mortgage, charge (including in the form of a floating charge) any of the Association assets (both present and future).
- d) The Board may delegate any of its powers to:
 - i. A Board Member;
 - ii. A Committee of Board Members;
 - iii. An Employee of the Association; or
 - iv. Any other person.
- e) The Board is responsible for the employment and performance management of the School Principal.
- f) The Board, working together with the School Principal, is responsible for the development, monitoring, and management of School educational performance standards.
- g) School Board Members will be deemed as Persons with Management Control (PMC] for the purposes of managing a CBCC or OHSC service
- h) PMC's and Nominated Supervisors will be determined as Fit and Proper Persons in accordance with Education and Care Services National Law Act 2010.

10.3 Source of funds

The funds of the Association may be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Board.

10.4 Control of funds

- a) The Association must open an account in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited;
- b) Subject to any restrictions imposed at a general meeting, the Board may approve expenditure on behalf of the Association;
- c) The Board may authorise the Treasurer or Principal to expend funds on behalf of the Association up to a specified limit without requiring approval from the Board for each item on which the funds are expended;
- d) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association that are above the limits defined by clause (c) must be signed by —
 - i. 2 Board members; or
 - ii. one Board member and a person authorised by the committee.
- e) All funds of the Association must be deposited into the Association's account within 10 working days after their receipt.

10.5 Sub-Committees

- a) To help the Board in the conduct of the Association's business, the Board may, in writing appoint one or more subcommittees;
- b) A subcommittee may consist of the number of people, whether or not members, that the Board considers appropriate.
- c) Subject to any directions given by the Board — a subcommittee may meet and conduct business as it considers appropriate;
- d) The sub-committee must perform the tasks allocated to it and may not delegate any tasks further.
- e) The Board may at any time dissolve any sub-committee so appointed.

The sub-committee will be headed by a Chair appointed by the Board, who is responsible for:

- a) Coordinating the undertaking of the committee as directed by the Board;
- b) Liaising with the Board by reporting directly to Board meetings. The number and frequency of reports to be supplied, is determined by the Board; and
- c) ensuring minutes are recorded of all sub-committee meetings.

10.6 Chair and Vice-Chair

The Chair must:

- a) Preside at all General and Board Meetings:
 - i. In the event of the absence of the Chair from a General or Board Meeting, the Vice-Chair must preside at that General or Board Meeting;

- ii. In the event of the absence of both the Chair and Vice-Chair from a General Meeting, a Member elected by the other Members present must preside at that General Meeting;
- iii. In the event of the absence of both the Chair and Vice-Chair from a Board Meeting, a Board Member elected by the other Board Members present must preside at that Board Meeting;
- b) Act as, or delegate when necessary, the public face and voice of the Association;
- c) Ensure that all business of the Association is conducted in the correct manner;
- d) Correspond with official bodies after consultation with the Board;
- e) Consult with the Secretary and Principal regarding the business to be conducted at each board meeting.

10.7 Secretary

The Secretary must:

- a) Coordinate the correspondence of the Association;
- b) Keep full and correct minutes of the proceedings of the Board and of the Association;
- c) Comply on behalf of the Association with:
 - i. **Section 53 of The Act**, with respect to the Register of Members of the Association, as referred to in Section 5;
 - ii. **Section 35 of The Act**, by keeping and maintaining an up to date condition of the Constitution of the Association and, upon request of a Member of the Association, must make available the Constitution for the inspection of the Member, and the Member may make a copy of or take and extract from the Constitution but will have no right to remove the Constitution for that purpose; and
 - iii. **Section 58 of The Act**, with respect to the record of the names and addresses (residential, postal or email) of:
 - a) Members of the Board;
 - b) Persons authorised to use the Common Seal of the Association (per Section 15); and
 - c) Persons appointed or acting as trustee on behalf of the Association.
- d) Unless the Members resolve otherwise at a General Meeting, have custody of all books, documents, records and registers of the Association, including those referred to in sub-paragraph (iii) above, but other than those required by Section 10.5 to be kept and maintained by, or in the custody of, the Treasurer;
- e) Coordinate the completion, receipt, submission and confidential storage of valid Declaration of Fitness and Propriety forms, Working With Children Checks and Criminal History Checks for all Board Members, Persons with Management Control and Nominated Supervisors (CBCC and OSHC).
- f) Perform such other duties as are imposed by these rules on the Secretary.

10.8 Treasurer

The Treasurer must:

- a) Liaise with the Business Manager to facilitate thorough understanding of the Association's accounts and financial position;
- b) Oversee the preparation of the annual budget and quarterly budget reviews and presentation to the Board;
- c) Oversee the financial risk management of the Association
- d) Ensure that all insurances are adequate and up to date;
- e) Ensure that the accounting records are kept in such manner as will enable true and fair accounts of the Association to be prepared from time to time and to be conveniently and properly audited as required by the Act;
- f) Comply on behalf of the Association with Section 66, and Sections 74 – 76, of the Act with respect to the accounting records of the Association by:
 - i. Within 6 months after the end of each financial year, preparing a financial report for the financial year that complies with subsection (ii)
The financial report is to be a Special Purpose Financial Report, and contain at least:
 - (1) *A Board Report*;
 - (2) *A Statement of Profit or Loss and Other Comprehensive Income*;
 - (3) *A Statement of Financial Position*;
 - (4) *A Statement of Changes in Equity*;
 - (5) *A Statement of Cash Flows*;
 - (6) Notes on significant accounting policies and other supporting information;
 - (7) *A Board Statement*.
 - ii. Ensuring that the financial report for the year is audited in accordance with Part 5 (Divisions 5, 6 and 7) of The Act; and
 - iii. Submitting to Members at each Annual General Meeting of the Association, accounts of the Association showing the financial position of the Association at the end of the immediately preceding financial year.
- g) Whenever directed to do so by the Chair, submit to the Board a report, balance sheet or financial statement in accordance with that direction.
- h) Unless the Members resolve otherwise at a General Meeting, have custody of all securities, books and documents of a financial nature and accounting records of the Association, including those referred to in paragraphs (d) and (e); and
- i) Perform such other duties as are imposed by these rules on the Treasurer.

10.9 Principal

The Principal must:

- a) Report to the Board on the provision of educational leadership in the School, the day to day running of the School and other general responsibilities associated with running a school, as outlined in the Principal's role description.
- b) Be an ex-officio Board Member, without voting rights; and
- c) Contribute to the formulation of the agenda of Board meetings.

10.10 **Validity of Acts**

The acts of the Board or subcommittee, or of a Board member or member of a subcommittee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Board member or member of a subcommittee

11 **Board Meetings**

- 11.1 The Board must meet together for the dispatch of business not less than eight (8) times in each year. The Chair, or at least half the Members of the Board, may convene a meeting of the Board at any time.
- 11.2 A quorum at a Board Meeting is the greater of three Board Members, or a number equal to 50% of the number of Board Members, rounded up where there is an odd number of Board Members. The quorum must be present at all times during a Board Meeting.
- 11.3 With the exception of the Principal, each Board Member has a deliberative vote.
- 11.4 A question arising at a Board Meeting must be decided by a majority of votes, but if there is no majority, the person presiding at the Board Meeting will have a casting vote in addition to his or her deliberative vote.
- 11.5 Subject to these rules, the procedure and order of business to be followed at a Board Meeting must be determined by the Board Members present at the Board Meeting.
- 11.6 As required under Sections 42 and 43 of The Act, a Board Member having any direct or indirect material personal interest in a contract, or proposed contract, made by or in the contemplation of the Board, must:
 - a) As soon as the member becomes aware of the interest, disclose the nature and extent of the interest to the Board, and at the next General Meeting of the Association; and
 - b) Not be present while the matter is being considered at the meeting, and not vote on the matter.
- 11.7 Section 11.6 does not apply with respect to a material personal interest:
 - a) That exists only by virtue of the fact that the member of the Board:
 - a. is an employee of the Association; or
 - b. is a member of a class of persons for whose benefit the Association is established.
 - b) That the Member has in common with all, or a substantial proportion of, the Members of the Association.
- 11.8 The Secretary must cause every disclosure made under Section 11.6(a) by a Board Member to be recorded in the minutes of the meeting at which it is made.

11.9 The Board, or a committee of the Board, may resolve to invite one or more persons to attend some or all of a Board Meeting, but no person other than a Board Member or member of that committee has a right to attend such meeting.

11.10 A person invited under section 11.9 to attend a Board Meeting:

- a) Has no right to any agenda, minutes or other document circulated at the meeting;
- b) May not comment about any matter discussed at the meeting unless invited by the Chair to do so; and
- c) Cannot vote on any matter that is to be decided at the meeting.

11.11 Transaction of Business Outside Meetings

- a) The Board may transact any of its business:
 - I. by the circulation of papers among all the Members of the Board, and a resolution in writing or electronic means by a majority of the Members is taken to be a decision of the Board; or
 - II. at a meeting at which Members (or some Members) participate by telephone, closed circuit television or other means, but only if a member who speaks on a matter before the meeting can be heard by the other Members;
- b) For the purposes of this clause the Chair of the Board and each Member of the Board have the voting rights they have at an ordinary meeting of the Board.
- c) A resolution approved under sub clause 11.11 a)i) is to be recorded in the minutes of the meetings of the Board.
- d) The Secretary may circulate papers among Members of the Board for the purposes of sub clause 11.11 a)i) by email, fax or other electronic transmission.

11.12 Use of technology to be present at Board meetings

- a) The presence of a Board member at a Board meeting need not be by attendance in person but may be by that Board member and each other board member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- b) A member who participates in a board meeting as allowed under subrule (a) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

12 General Meetings

12.1 A General Meeting may be convened by two or more Board Members.

12.2 Meetings requested by Members

- a) If the Board receives a request from twenty percent or more of Members, the Board must convene a Special General Meeting.
- b) The request must detail any proposed Special Resolution/s, the names of the Members requesting the meeting and be signed by all of the Members making the request. For this purpose, signatures of the Members may be contained in more than one document.
- c) A general meeting requested by the Members must be held no later than two calendar months after the request is received.

12.3 Notice of General Meeting

At least 21 days' notice of a General Meeting must be given to Members, Board Members, persons who have been correctly nominated to become Board Members and who are not ineligible, and the Auditor. The notice must:

- a) State the date, time and place (or places) of the meeting;
- b) State the general nature of the business to be conducted at the meeting;
- c) State any proposed resolutions; and
- d) Contain a statement informing Members of the right to appoint a proxy.

12.4 Shorter Notice Period of General Meeting

Subject to The Act, a shorter notice period of a General Meeting may be given, if the calling of the notice of the General Meeting on shorter notice is agreed to:

- a) In the case of an Annual General Meeting, by all Members entitled to attend and vote at the meeting; or
- b) In the case of any other General Meeting, by 95% of the Members entitled to attend and vote at the General Meeting.

and accordingly, any such General Meeting will be treated as having been duly convened.

12.5 General Meetings at two or more places

A General Meeting may be held in one place or two or more places. If a General Meeting is held in two or more places, the Association must use technology that gives Members a reasonable opportunity to participate at that General Meeting.

12.6 Postponement or cancellation of General Meeting

- a) Subject to this Constitution and The Act, the Board may change the place (or places) of, postpone or cancel a General Meeting.
- b) If a General Meeting is convened pursuant to a request by Members, the Board may not postpone or cancel the General Meeting without the consent of the requesting Members.

12.7 Notice of change, postponement or cancellation of General Meeting

- a) If the Board changes the place (or places) of a General Meeting, notice must be given to each Member and each person entitled to receive notice of the meeting of the new place (or places) of the meeting.
- b) If the Board postpones a General Meeting, notice must be given to each Member and each other person entitled to receive notice of the new date, time and place (or places) of the meeting.
- c) If the Board cancels a General Meeting, notice must be given to each Member and each other person entitled to receive notice of General Meetings.

12.8 Annual General Meeting

An Annual General Meeting of Members will be held once in every calendar year within six (6) months after the end of the Association's Financial Year.

12.9 Quorum and Proceedings at General Meetings

A quorum at a General Meeting exists where six Members are present in person or by proxy. A person acting as a proxy for a Member must themselves be a Member and can only be a proxy for one other member. The quorum must be present at all times during the General Meeting.

12.10 Lack of Quorum

If a quorum is not present within 30 minutes after the time appointed for a General Meeting (or any longer period of time as the Chair may allow) or ceases to be present at any time during the General Meeting, the General Meeting:

- a) is to be adjourned to be resumed on a day, time and place (or places) as the Chair determines, or if the Chair is not present, as the Board Members present at the meeting may determine; or
- b) if the Board Members do not so determine, no Board Member is present, or no Board Members so present determines:
 - i. the date for the resumption of the adjourned General Meeting will be on the same day in the following week;
 - ii. the time for the resumption of the adjourned General Meeting will be at the same time as the adjourned meeting; and

- iii. the place (or places) for the resumption of the adjourned General Meeting, will be at the same place (or places) as the adjourned meeting.

12.11 Chairing General Meetings

- a) The Chair of the General Meeting will be the Board Member elected for the time being as Chair of the Board.
- b) If the Chair is not present within 30 minutes after the time appointed for any General Meeting, or if the Chair is unwilling or unable to act as Chair for the whole or any part of that General Meeting, the Board Members present may elect a Board Member present to chair that General Meeting.
- c) If no Board Member is elected, or if all the Board Members present decline to take the chair for the whole or any part of that General Meeting, the Members present (whether in person or by proxy) may elect a Member present (in person) to chair for the whole or any part of that General Meeting. If the Members do not so elect a Chair, the meeting will be adjourned to be resumed on the same day, at the same time and at the same place (or places) in the following week.

12.12 Conduct of General Meetings

The Chair of each General Meeting has charge of conduct of that meeting, including the procedures to be adopted and the application of those procedures at that meeting.

12.13 Special Resolutions

A Special Resolution is passed at a General Meeting of the association by the votes of not less than three fourths of the members of the association who cast a vote at the meeting, subject to section 12.9

12.14 Determining whether resolution carried

- a) In this rule —**poll** means the process of voting in relation to a matter that is conducted in writing.
- b) Subject to subrule (4), the chairperson of a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been —
 - i. carried; or
 - ii. carried unanimously; or
 - iii. carried by a particular majority; or
 - iv. lost.
- c) If the resolution is a special resolution, the declaration under subrule (2) must identify the resolution as a special resolution.
- d) If a poll is demanded on any question by the chairperson of the meeting or by at least 3 other ordinary members present in person or by proxy —
 - i. the poll must be taken at the meeting in the manner determined by the chairperson;

- ii. the chairperson must declare the determination of the resolution on the basis of the poll.
- e) If a poll is demanded on the election of the chairperson or on a question of an adjournment, the poll must be taken immediately.
- f) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chairperson.
- g) A declaration under subrule (2) or (4) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

12.15 Adjournment of a General Meeting

- a) The Chair of a General Meeting at which a quorum is present may, with the consent of the Members present in person or by proxy, adjourn the General Meeting.
- b) If a majority of Members present at a General Meeting, in person or by proxy, determine that the meeting should be adjourned, the Chair must adjourn the meeting to another date, time and place (or places) determined by the Chair.
- c) If a General Meeting is adjourned for 30 days or more, at least 30 days' notice must be given to Members, Board Members, and the Auditor of the day, time and place (or places) for the resumption of the adjourned General Meeting.
- d) No business may be transacted on the resumption of an adjourned or postponed General Meeting other than the business left unfinished at the adjourned or postponed General Meeting.

13 Minutes of Meetings of the Association

- 13.1 The Secretary must cause proper minutes of all proceedings of all General Meetings and Board Meetings to be taken.
- 13.2 The Chair must ensure that the minutes taken (under Section 13.1) of a General Meeting or Board Meeting, are checked and signed as correct by the Chair of the General Meeting or Board Meeting to which those minutes relate, or by the Chair of the next succeeding General Meeting or Board Meeting, as the case requires.
- 13.3 When minutes have been entered and signed as correct under Section 13.2, they are, until the contrary is proved, evidence that:
 - a) the General Meeting or Board Meeting to which they relate (in this sub-section called "the meeting") was duly convened and held;
 - b) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
 - c) all appointments or elections purporting to have been made at the meeting have been validly made.

14 The Constitution

14.1 The Association may alter or rescind the Constitution, or make rules additional to these rules, in accordance with the following procedures:

- a) Subject to Section 14.1 (d) and (e), the Association may alter its rules by Special Resolution but not otherwise;
- b) Within one month of the passing of a Special Resolution altering its rules, or such further time as the Commissioner may in a particular case allow (on written application by the Association), the Association must lodge with the Commissioner notice of the Special Resolution, setting out particulars of the alteration together with a certificate given by a Member of the Board certifying that the resolution was duly passed as a Special Resolution and that the Constitution was so altered conform to the requirements of the Act;
- c) An alteration of the Constitution does not take effect until rule 14.1 (b) is complied with;
- d) An alteration of the Constitution having effect to change the name of the Association does not take effect until rules 14.1 (a) to (c) are complied with, and the approval of the Commissioner is given to the change of name;
- e) An alteration of the Constitution having effect to alter the objects or purposes of the Association does not take effect until rules 14.1 (a) to (c) are complied with, and the approval of the Commissioner is given to the alteration of the objects or purposes.

14.2 This Constitution binds every Member and the Association to the same extent, as if every Member and the Association had signed and sealed this Constitution and agreed to be bound by all its provisions.

15 Common Seal of the Association

15.1 The Association must have a common seal on which its corporate name appears in legible characters.

15.2 The common seal of the Association must not be used without the express authority of the Board, and every use of that common seal must be recorded in the minute book referred to in Section 13.

15.3 The affixing of the common seal of the Association must be witnessed by any two of the Chair, the Vice Chair, the Secretary or the Treasurer.

15.4 The common seal of the Association must be kept in the custody of the Secretary, or of such other person as the Board from time to time decides.

16 Inspection of Records, etc. of the Association

16.1 Subject to the sub-clauses below, and the law, a Member may at any reasonable time inspect without charge the books, documents, records and securities of the Association.

- a) If the member wishes to inspect a document that records the minutes of a Board or other committee meeting, the right to inspect that document is subject to any decision the Board has made about minutes of Board and other committee meetings generally, or the minutes of a specific Board or other committee meeting, being available for inspection by members.
- b) Access is subject to reasonableness especially considering availability of information and excluding disruptive or vexatious requests.
- c) The member may make a copy of or take an extract from a record or document of the Association but does not have a right to remove the record or document for that purpose.
- d) The member must not use or disclose information in a record or document of the Association, except for a purpose:
 - i. that is directly connected with the affairs of the Association; or
 - ii. that is related to complying with a requirement of the Act.

17 Disputes and Mediations

17.1 Dispute matters arising with respect to the Constitution are to be managed in accordance with the School's policies, which provide procedures for the resolution of disputes:

- a) Between members; or
- b) Between members and the incorporated Association.

18 Distribution of Surplus Property on Winding up of the Association

If, upon the winding up or dissolution of the Association, there remains after satisfaction of all its debts and liabilities any property whatsoever, the same must not be paid to or distributed among the Members, or former Members. Any surplus property must be given or transferred to another association incorporated under the Act which has similar objectives, and which is not carried out for the purposes of profit or gain to its individual members. The association to which surplus property is to be given or transferred to shall be determined by resolution of the Members.

19 Amendments Contained in this Version of the Constitution

1. Amendment of the Constitution to comply with requirement of the *Education Act 1999* and the *Associations Incorporation Act 2015*.
2. Correction of document formatting and Section references.
3. Correction of Section cross-referencing within the Constitution, as a result of amendment (2).
4. **Section 2:** Removal of reference to “Teachers’ Representative”.
5. **Section 5 & 6:** re-ordered.
6. **Section 5.2:** Clarification of statement of rights to inspect the Register of Members.
7. **Section 6.1:** Amendment to *nominated* parents/guardians.
8. **Section 6.1:** Removal of reference to “members of the academic staff”, on advice of the Department of Education for school registration.
9. **Section 6.2:** Addition of membership for additional parents/guardians through application.
10. **Section 6.3(b):** Removal of reference to “academic staff”.
11. **Section 9.3(h):** Removal of reference to “Teachers’ Representative”.
12. **Section 10.1:** Removal of reference to “Teachers’ Representative”, on advice of the Department of Education for school registration.
13. **Section 10.2:** Addition of reference to the Board Manual.
14. **Section 10.2:** Addition of Board duty reference for the “development, monitoring, and management of School educational performance standards”.
15. **Section 10.7:** Removal of the entire Section 10.7, referring to the position of “Teachers’ Representative”.
16. **Section 10.8:** Moved in entirety to Section 9.9
17. **Section 11.3:** Removal of reference to “Teachers’ Representative”.
18. **Section 11.8 / 11.9:** Including provision for non-Board Member attendance at Board meetings.
19. **Section 12.2:** Removal of minimum number of Members (5) required to request a General Meeting by Members. This is in accordance with The Act, which stipulates a percentage of Membership.
20. **Section 12.2:** Removal of 21 day timeframe from 12.2(a). Timeframe for a Member request General Meeting is covered under Section 12.2(c) and Section 12.3.
21. **Section 12.9:** Change to period for holding of an Annual General Meeting, to comply with Section 50 of The Act.
22. **Section 13.1:** Removal of reference to a Minutes Book.
23. **Section 16:** Specifying limitations on requests for access and inspection of Association record.
24. **Section 17:** Removal of existing text, referring instead to the School’s policies.

FORM A: APPLICATION FOR MEMBERSHIP TO THE ASSOCIATION

I,

(Insert APPLICANT'S name)

of

(Insert APPLICANT'S residential, postal or email address)

(required under section 53 of the Associations Incorporation Act (2015))

apply to become a member of the *Rockingham Montessori School Incorporated* association.

If my application is accepted, I agree to be bound by the rules of the Constitution of the Association.

Signature:

Date:

Section 6.2: *Membership of the Association shall be conferred upon such members of the general community whose written application for membership is ratified by the Board in accordance with this Constitution.*

INFORMATION FOR APPLICANTS

- If your application for membership to the *Rockingham Montessori School Incorporated* association is accepted, your name and address, as provided above, will be recorded in a register of Members and be made available on request to other Members, under Section 53 of the *Associations Incorporation Act (2015)*.
- You can contact the Association at
Rockingham Montessori School
7 Attwood Way
Rockingham WA 6168.
- You can access or correct personal information (your name and address) by contacting the Association as indicated above.

OTHER INFORMATION

- If your application is accepted you are entitled to inspect and make a copy of the register of Members, under Section 54 of the *Associations Incorporation Act (2015)*.
- If your application is accepted you are entitled to inspect and make a copy of the rules (constitution) of the Association, under Section 35 of the *Associations Incorporation Act (2015)*.
- If your application for membership is rejected by the Board, you may give notice of your intention to appeal within 14 days of being advised of the rejection. The Association, in a General Meeting no later than the next Annual General Meeting, must confirm or set aside the decision of the Board to reject your application, after giving you a reasonable opportunity to be heard or to make written representations to the General Meeting.

FORM B: APPOINTMENT OF A PROXY

I,

(Insert MEMBER'S name)

of

(Insert MEMBER'S residential or postal address)

being a member of the *Rockingham Montessori School Incorporate* association, do hereby appoint:

.....

(Insert PROXY'S name)

(if no PROXY is nominated, then the Chair of the Board will be appointed, and vote in favour of all resolutions listed below)

who is also a Member of the Association, as my proxy.

My proxy is authorised to vote on my behalf for the following special resolution:

Resolution

It is proposed:

- That the amended constitution as attached, and approved by the Board of Rockingham Montessori School Incorporated, be accepted in its entirety.

(Tick(☒ only ONE of the following)

☐

FOR

☐

AGAINST

☐

ABSTAIN

Signature:

Date:

(of Member appointing Proxy)

(this page intentionally left blank)

FORM C: NOTICE OF GENERAL MEETING TO ALTER THE CONSTITUTION OF THE ASSOCIATION

The Rockingham Montessori School Incorporated Association is convening a General Meeting, at which the following resolution(s) will be proposed, as special resolutions to alter the rules (Constitution) of the Association.

The meeting will be held at _____ am/pm, on _____ the _____ .

The meeting will be held at _____ .

A list of alterations to the rules which will be proposed as Special Resolutions at the meeting, is on the following page(s).

INFORMATION FOR MEMBERS

- Section 12.10 of the Constitution allows for proxy votes. A proxy form is enclosed for you to nominate another Member (or the Chair of the Board) to vote on your behalf if you cannot attend the meeting.
- Alterations to the Constitution can only be made if supported by 75% of Members voting at the meeting or by proxy.
- Alterations to the Constitution only take effect when lodged with the Department of Mines, Industry Regulation and Safety (or its successors).

SPECIAL RESOLUTIONS

Currently, Section ____ of the Constitution states:

"<text>"

It is proposed to alter this rule so that it states as follows:

"<text>"

Currently, Section ____ of the Constitution states:

"<text>"

It is proposed to alter this rule so that it states as follows:

"<text>"

Currently, Section ____ of the Constitution states:

"<text>"

It is proposed to alter this rule so that it states as follows:

"<text>"